

As Chairman of the Subcommittee on National Parks, Forests and Public Lands, I've become concerned about the 2005 Energy Policy Act's impacts on public lands, private landowners and wildlife in the West.

The provisions removed from this bill prior to floor consideration would have made very modest improvements to the Energy Policy Act, a bill largely written by and for the fossil fuel industry.

The first would have simply authorized a study before federal agencies designate energy corridors on federal lands across the entire West. I am deeply concerned that the most recent maps put forth by the agencies identify corridors crossing through National Parks, Wildlife Refuges, Monuments and wilderness areas. Like DICK CHENEY's Energy Taskforce, the initial maps of the draft corridors were drawn at the request of the energy industry, with very little public input. The study would have simply put a better, more thorough process in place by requiring agencies to consider congestion and constraints on the system as well as barriers to access for renewables. My provision would have also required the agencies to avoid places like National Parks when designating corridors.

The second provision, specifically requested by the Western Governors' Association, would have required land management agencies to analyze the impacts of oil and gas activities in critical wildlife areas before allowing drilling. I ask unanimous consent that these letters from the Western Governors' Association be entered into the RECORD.

Under the 2005 bill, the oil and gas industry is able to conduct drilling and other activities on public lands without first ensuring protection of wildlife and other resources. The original provision would have required agencies to avoid wildlife areas and follow appropriate laws to protect the environment.

I am disappointed that these modest reforms of the oil and gas industry's sweetheart package from 2005 were rejected.

Nevertheless, I support the reform provisions of this bill and I know that there will still be opportunity to address some of the shortcomings of the 2005 Energy bill as we move forward. Because once the public is fully aware of the consequences and immense impacts of the energy corridors designations and categorical exclusion provisions, they will demand action.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, July 27, 2007.

Hon. NICK RAHALL,
Chairman, Committee on Natural Resources,
Washington, DC.

DEAR CHAIRMAN RAHALL: I write to urge you to keep the oil and gas management reform provisions of H.R. 2337, which contain several modest but important reforms to restore some semblance of balance to the federal government's oil and gas development programs.

As you are aware, the overall House Natural Resources Committee package will restore responsible stewardship to the development of our publicly owned oil and gas resources. Unfortunately, some of the criticism from opponents of these provisions misrepresent the content and anticipated consequences of these provisions.

These provisions will not increase oil and gas prices. In fact, oil prices respond to global market forces of supply and demand, not whether or not oil and gas operators on public lands are required to pay a small adminis-

trative fee to obtain drilling permits, or a dollar per acre fee to discourage speculation, or post bonds to repair the damage done by development to fish and wildlife resources, or make sure private property owners are treated fairly, or whether environmental values are properly protected.

It has also been alleged that the oil and gas language in H.R. 2337 would "limit energy development on the public lands in the Intermountain West." In fact, no provisions in H.R. 2337 limit any company's access to federal lands for oil and gas activities in the region.

Of particular concern to critics are provisions of the bill that provide some modest protection for the private property rights of private surface owners who do not own the federal oil and gas resources under their farms and ranches. These provisions would not give landowners a veto over oil and gas development, but would require lessees to minimize impacts on the surface. In addition, the critics apparently have a problem with requiring companies that drill on federal lands to protect water resources that might be impaired by their operations, and replace resources damaged by their operations. Critics also have a problem with requirement financial guarantees from operators on federal lands to ensure that they clean up after they have completed operations, and do not leave the clean-up bill for taxpayers to pay. None of these provisions will impair any company's access to federal oil and gas resources. They will, however, ensure the responsible development of these resources.

Other important provisions of the House Natural Resources Committee package are the language on energy transmission corridors and categorical exclusions. This language would require that a needs assessment of constraints and congestion in the West's transmission system for the transmission of various energy resources be finalized, and the data used when applicants apply for rights-of-way across federal lands. In addition, the provision contains some common-sense protections of sensitive areas and resources that could be impaired by the improper siting of transmission facilities. The provision for categorical exclusions ensures proper environmental review for oil and gas in critical wildlife areas.

In summary, the oil and gas management provisions of the House Resources Committee package contain a modest number of reforms that will help protect the wildlife, water resources and other environmental values and private property that can be impaired by irresponsible oil and gas development.

Sincerely,

RAÚL M. GRIJALVA,
Chairman, Subcommittee on National
Parks, Forests and Public Lands.

WESTERN GOVERNORS' ASSOCIATION,
Washington, DC, June 5, 2007.

Hon. NICK RAHALL,
Washington, DC.

Hon. DON YOUNG,
Washington, DC.

DEAR CHAIRMAN RAHALL AND REPRESENTATIVE YOUNG: On behalf of the Western Governors' Association, we are writing in support of the proposed revised section 105 in H.R. 2337, "Limitation of Rebuttable Presumption Regarding Application of Categorical Exclusion Under NEPA for Oil and Gas Exploration and Development Activities."

In February 2007, the Western Governors' Association adopted Policy Resolution 07-01, "Protecting Wildlife Migration Corridors and Crucial Wildlife Habitat in the West." The resolution urges Congress "to amend Section 390. Subpart (b)(3) of the Energy Pol-

icy Act of 2005 to remove the categorical exclusion for NEPA reviews for exploration or development of oil and gas in wildlife corridors and crucial wildlife habitat on federal lands. By removing the categorical exclusion, appropriate environmental site analysis will be completed as necessary to protect crucial wildlife habitat and significant migration corridors located in the field of development."

Subpart (b)(3) of section 309 of the 2005 Energy Policy Act is currently worded in such a manner that oil or gas wells could be drilled under a categorical exclusion, with no additional analysis, if "an approved land use plan . . . prepared pursuant to NEPA analyzed drilling as a reasonably foreseeable activity. . . ." We are concerned that completion of an RMP after the five-year period that an EA or EIS covers, or before an EIS is completed for a developing field, would allow authorization of drilling under a categorical exclusion (Cat Ex), including in sensitive wildlife corridors and crucial habitat, with general provisions provided only by the RMP.

The Governors believe that the Categorical Exclusions authorized broadly under paragraph (b) of the Energy Policy Act may often be appropriate. However, with specific regard to subpart (b)(3), the Governors do not want their ability to require adequate mitigation in areas the States have identified as sensitive wildlife corridors and crucial habitat to be diminished or eliminated. Development of these sensitive areas obviously needs detailed disclosure and analysis of impacts to other resources, and the permits need to include avoidance and mitigation measures to protect those resources.

Although the Department of the Interior has worked fairly and inclusively with the states to date, the categorical exclusion provision in subpart (b)(3) of the 2005 Energy Act appears to provide a legal option to deny state fish and wildlife agencies the opportunity to protect and adequately manage fish and wildlife resources on BLM lands by authorizing oil and gas development without adequate analysis, disclosure and state agency involvement. Unless the problematic language in subpart (b)(3) is amended or removed, or an additional administrative process implemented to allow state fish and wildlife agencies an opportunity to recommend appropriate protection and conservation conditions to accompany permits to drill in sensitive wildlife corridors and crucial habitat, significant wildlife impacts could occur.

We believe the proposed revised section 105 in H.R. 2337 addresses this concern, and we therefore support the revised section 105. We do have concerns regarding subtitle (D), "Ensuring Responsible Development of Wind Energy," that we will explain in a separate letter.

The Western Governors appreciate the Committee's efforts to address our concerns in section 105, and we look forward to working with you as the bill moves forward.

Sincerely,

M. MICHAEL ROUNDS,
Governor of South Dakota, Chairman.

DAVE FREUDENTHAL,
Governor of Wyoming,
Vice Chairman, Lead Governor.
JANET NAPOLITANO,
Governor of Arizona,
Lead Governor.